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OFFICE OF PETITIONS

In re Application of
Bortlik, et al.
Application No. 10/057,660
Filed: January 25, 2002
Attorney Docket No. 112701-593
For: PRIMARY COMPOSITION
COMPRISING A LIPOPHILIC BIOACTIVE
COMPOUND

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed November 16, 2005 (certificate of mailing date November 11, 2005), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed March 22, 2005, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on June 23, 2005 for failure to reply to the March 22, 2005 non-final Office action. A Notice of Abandonment was mailed on November 1, 2005.

Petitioners assert that an amendment was timely filed and received in the Office on June 13, 2005.

In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing June 13, 2005 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 9 page amendment. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on June 13, 2005. MPEP 503.

The petition under 37 CFR 1.181 is **GRANTED**, the Notice of Abandonment is **vacated**, and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 1651 for consideration of the amendment filed on June 13, 2005 and resubmitted with the present petition.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



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for Patent Examination Policy